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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

**GENEVA ROCK PRODUCTS, INC.,**

Plaintiff,

v.

**QBE INSURANCE CORPORATION,**

Defendant.

**NOTICE OF REMOVAL**

Case No. 2:23-cv-00424-DAK

Judge Dale A. Kimball

(Removed from the Third Judicial District Court, Salt Lake County, Utah; Civil Action No. 230903608)

Pursuant to 28 U.S.C. §§ 1441(a) and (b) and 1446, Defendant QBE Insurance Corporation (“QBE”), by and through counsel, hereby removes to this Court a state court action entitled *Geneva Rock Products, Inc., v. QBE Insurance Corporation*, pending in the Third Judicial District of Utah, Salt Lake County, Case No. 230903608 (the “State Court Action”) on the grounds of diversity jurisdiction, and in support of its petition, states as follows:

### **PROCEDURAL BACKGROUND**

1. Plaintiff Geneva Rock Products, Inc., (“Plaintiff”) served QBE with the Summons and Complaint in the State Court Action through its registered agent for service of process in Utah on June 15, 2023. A copy of the summons and Complaint in the State Court Action as served on QBE, indicating the date of service, is attached hereto as **Exhibit 1**. Removal is thus timely under 28 U.S.C. §1446(b) because fewer than 30 days have passed since service of the Summons and Complaint upon QBE.

2. The summons and complaint attached hereto as Exhibit 1 are the only pleadings filed in the State Court Action, as QBE has not yet appeared and answered in the State Court Action.

3. This is an insurance coverage action in which Plaintiff asserts causes of action against QBE for (1) Breach of Contract; (2) Declaratory Judgement; (3) Breach of the Implied Covenant of Good Faith and Fair Dealing; and (4) Breach of Fiduciary Duty, based on QBE’s purported actionable failure to defend and indemnify Plaintiff in two underlying lawsuits entitled *Raul Guzman et al., v. Geneva Rock Products, Inc. et al*, No. 2:18-cv-00843-EJF and *Oghenetega Emuveyan v. Geneva Rock Products Inc.*, et al, Civil No. 190904868 ( the “Claims”).

### **GROUNDS FOR REMOVAL**

4. The State Court Action is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by QBE pursuant to U.S.C. § 1441(a) and (b), because it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

5. Plaintiff is a Utah corporation (see Ex. 1, ¶ 1) with its principal place of business in Murray, Utah.

6. QBE is a Pennsylvania corporation (see Ex. 1, ¶ 2) with its principal place of business in New York.

7. As Plaintiff is a citizen of Utah and QBE is a citizen of Pennsylvania and New York, complete diversity of citizenship exists. Accordingly, pursuant to 28 U.S.C. § 1332, this court has jurisdiction over this matter because there exists complete diversity of citizenship between Plaintiff and Defendant.

8. In addition, the amount in controversy exceeds \$75,000. Plaintiff alleges that it is entitled to recover the cost to defend and/or settle the underlying lawsuits, which amount Plaintiff alleges is in excess of \$1.5 million. Plaintiff also seeks punitive damages and its attorneys' fees in this action. The amount in controversy thus exceeds \$75,000 exclusive of interest and costs and therefore this Court has jurisdiction.

9. This Notice of Removal is being filed in this Court, the district court of the United States for the district and division within which the state court action is pending, as required by 28 U.S.C. §§ 1446(a) and 1441(a), and this Court is the appropriate forum for this case.

10. Pursuant to 28 U.S.C. § 1446, a copy of this Notice of Removal shall be given to Plaintiff and is being filed contemporaneously in the Third Judicial District of Utah, Salt Lake County.

DATED this 5<sup>th</sup> day of July, 2023.

GOEBEL ANDERSON PC

/s/ Heidi G. Goebel

Heidi G. Goebel

Andrew L. Margulis (*Pro Hac Vice* forthcoming)  
ROPERS MAJESKI PC

*Attorneys for Defendant*

**CERTIFICATION**

I, Heidi Goebel, hereby certify pursuant to DUCivR 81-2(a)(1)(C) a copy of all processes, pleadings, and orders served on QBE Insurance Corporation are filed in the federal case as required Rule 81-2 and 28 U.S.C. § 1446(a), and as permitted by 28 U.S.C. § 1447.

DATED this 5<sup>th</sup> day of July, 2023.

GOEBEL ANDERSON PC

*/s/ Heidi G. Goebel*

Heidi G. Goebel

*Attorney for QBE Insurance Corporation*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 5, 2023, I served the foregoing document with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

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*Attorneys for Plaintiff*

*/s/ Karen Harwood* \_\_\_\_\_